

CAPTAIN SAMUEL MILLER—HEIRS OF.

[To accompany Bill H. R. No. 253.]

MARCH 2, 1860.

Mr. FERRY, from the Committee on Revolutionary Claims, made the following

REPORT.

*The Committee on Revolutionary Claims, to whom was referred the petition of the heirs of Captain Samuel Miller, report :*

That this claim was favorably reported on the 12th day of March, 1858. That report, with the evidence, has been re-examined ; and your committee, concurring entirely with that report, adopt it, and report a bill in all respects the same as the one then reported.

IN THE HOUSE OF REPRESENTATIVES, March 12, 1858.

Mr. CLAWSON, from the Committee on Revolutionary Claims, made the following report :

*The Committee on Revolutionary Claims, to whom was referred the petition of Samuel Miller, one of the heirs-at-law, and in behalf of all the heirs of Captain Samuel Miller, of the revolution, praying for the seven years' half-pay promised by certain resolves of Congress, report :*

That having carefully examined the proofs, they report the facts substantially as follows :

Document No. 2 shows the Treasury Department were applied to for information whether the seven years' half-pay due to the heirs of Captain Samuel Miller, of the 8th Pennsylvania regiment, revolutionary war, who was stated to have been killed in 1778, which was promised by the resolves of August, 1780, had been paid, and if paid, to whom ? In reply, the department says : it appears from the records of that office that Samuel Miller was a captain of the 8th Pennsylvania regiment, and died the 8th of July, 1778, and that the payment of the seven years' half-pay grants were confided to the several States to which the officers who were killed or died in the service belonged ; and when payments were made, they were charged in the State accounts to the government, and were allowed on settlement with the

States ; but as the accounts of the States against the United States were not entered upon the books of the paymaster general and commissioner of army accounts, the records of said office furnish but little information in regard to the payments made under the resolve before mentioned ; that in a book of half-pay payments, believed to have been furnished that office by the State of Pennsylvania many years ago, on the application of Peter Hagner, esq., then Third Auditor, there was an account opened in the name of the widow and children of Captain Samuel Miller, Pennsylvania line, but no credit on account of half-pay appears therein, nor debit of payment therefor ; so that the only means of ascertaining whether they had received the grant would be the accounts of the State of Pennsylvania. And it is further stated that the accounts opened in the book in question, in his opinion, certainly indicated an application for the benefit of the grant, but how it had been disposed of the State accounts alone would show.

Document No. 3 is the next piece of evidence produced. The auditor general of the State of Pennsylvania states that no one received the seven years' half-pay, but the books show that those who served to the end of the war received five years' full pay in lieu of half-pay for life.

Document No. 4 shows that, by the proceedings of the orphans' court of Westmoreland county, in the Commonwealth of Pennsylvania, on the 4th of May, 1784, Captain Samuel Miller was killed by the Indians when in service in the year aforesaid ; and that he was appointed a captain in the 8th Pennsylvania regiment, August 9, 1776.

Document No. 5 shows that the State of Pennsylvania was indebted to him, at the time of his death, in the sum of £213 15s. 4d. in specie, being the amount of the residue of the depreciation of his pay, with two instalments of interest paid thereon.

Document No. 6 are letters of administration, &c.

From this testimony your committee can come to no other conclusion than that the said Samuel Miller was appointed captain in the Pennsylvania line of continental service in August, 1776, and continued therein until he was killed, in July, 1778. That his widow and orphan children made application for the seven years' half-pay promised by the resolution of Congress of the 24th of August, 1780, which, for causes not now in the power of the petitioner to explain, was not paid, and now remains due to the legal representatives of said Captain Samuel Miller, unaffected by any of the acts of limitations, as the claim was made and booked but not paid, and in that particular is analogous to the case of Absalom Baird, decided in the Court of Claims.—(See Devereux's Rep. U. S. Court of Claims, page 188 to 195.) And if there were no decisions in the Court of Claims of analogous character, your committee are aware that there are a number of cases of similar description on the journals of Congress and the statute books. But the opinion of the court referred to settles the validity of this claim under the resolution of June 3, 1784.—(See *Ib.*, 192.) Your committee are, therefore, of the opinion that this claim is a just one and ought to be paid, and they report a bill accordingly.